



Rehabilitation of Decorative Asphalt Crosswalks FY 13

TRANSPORTATION DEPARTMENT

**P.O. Box 308 - 850 Warren C. Coleman Blvd.
Concord, North Carolina 28026-0308**



850 Warren C. Coleman Blvd., P.O. Box 308, Concord, NC 28026 - www.ci.concord.nc.us

May 2, 2013

To: Interested Contractors

Subject: Solicitation of Quotes
Rehabilitation of Decorative Asphalt Crosswalks FY 13

The City of Concord is requesting quotes for our annual rehabilitation work of decorative (stamped) asphalt crosswalks in the Downtown section of the city.

If interested, please provide us with your signed quote in a sealed envelope by the date specified on the Quoting Form (May 9, 2013). Thank you for your consideration and if you have any questions with this quote request, please call us at 704-920-5338.

Sincerely,

CITY OF CONCORD

J. K. Wilson, III, P.E.,
Transportation Director

JKW/Imp

cc: Project File: Rehabilitation of Decorative Asphalt Crosswalks FY 13
Sid Talbert, Purchasing



TRANSPORTATION DEPARTMENT

EXHIBIT "A" GENERAL CONDITIONS AND QUOTE FORM

Solicitations of Quotes for the Rehabilitation of Decorative Asphalt Crosswalks FY 13

The City of Concord Transportation Department is soliciting quotes for the rehabilitation of decorative asphalt crosswalks as described below in the Downtown section of the city. If you wish to place a quote on this work, please fill out the following Quote Form and return this quoting package to the indicated address.

1) Definitions:

City – the City of Concord, North Carolina

Contract – the executed agreement between the City of Concord and the successful Quoter, covering the performance of the work and the compensation therefore. The term contract is all inclusive with reference to all written agreements affecting a contractual relationship and all documents referred to therein, and shall specifically include, but not be limited to, the quote form, the printed contract form and all attachments thereto, the contract bonds, insurance forms, the plans, the Standard Specifications and all supplemental specifications thereto, the general conditions, and all executed supplemental agreements, all of which constitute one instrument.

Contractor – the Contractor named in the contract documents.

Director – City of Concord Transportation Director or his designated representative.

Proposal requirements – the legal and procedural documents, any general and special provisions, together with modifications thereof, and Standard Specifications requirements, with all addenda thereto.

Quoter - An individual, partnership, firm, corporation, or joint venture submitting a quote for the work contemplated

Standard Drawings - North Carolina Department of Transportation Raleigh, "Highway Design Branch Roadway Standard Drawings" 2012 Ed.

Standard Specifications – North Carolina Department of Transportation Raleigh, "Standard Specifications for Roads and Structures", 2012 Ed. and the "Highway Design Branch Roadway Standard Drawings" 2012 Ed.

Subcontractor – any person, firm, partnership, corporation, with a direct contract with the Contractor who acts for or in behalf of the Contractor in executing any part of the contract, but does not include one who merely furnishes materials.

Transportation Department – City of Concord Transportation Department

Work – the entire completed service or the various, separately identifiable parts, labor, material or requirement thereof needed to perform such under the contract documents to the satisfaction of the City.

- 2) Project Information: The work consists of the selected Contractor providing for the rehabilitation of decorative asphalt crosswalks in the Downtown section of the City of Concord as designated including, but is not limited to, all mobilization(s), demobilization(s), special subcontracting, handwork, tools, labor, rentals, equipment, materials, signs, barricades, miscellaneous hardware, consumables, other incidentals, security of the work, traffic and pedestrian control and safety operations, cleanup, removal of any debris, and disposal(s), repairs, touch-up, permits and licenses, and all else required as necessary to the satisfaction of the Director and the City of Concord.

Any defective work whether the result of poor workmanship, use of defective materials, damage through carelessness or any other cause shall be removed and the work re-executed at no cost to the City.

The Contractor is also hereby referred to certain items of the Special Conditions for further information with regards to this work.

- 3) Specified Times of the Contract, Working Hours, Schedules, Reports, and Supervision: The Contractor shall pursue the work diligently with workmen in sufficient numbers, abilities, and supervision; and with equipment, materials and methods of construction as may be required to complete the work described in this contract as provided by the Director by the completion date of **sixty (60) Days** after the effective date of the contract. The Contractor will be required to maintain working hours from 9:00 AM to 4:00 PM with a ½ hour unpaid lunch allowance unless otherwise modified by the Director. All work shall be accomplished in a continuous manner once the contractor begins. Normal, daily mobilizations in the course of the work shall be considered incidental to the contract unit prices of all quoted items.

The Contractor will at no cost to the City notify the Director within forty-eight (48) hours in advance of beginning work and thereafter coordinate with the Director or his designated representative regarding the proposed work schedule at work locations and obtain approval and request for cooperative efforts by the City. The Contractor will also, at no cost to the City, coordinate with the Director or his designated representative to provide his work schedule to Concord Communications at (704) 920-5580 and the Cabarrus County School System Bus Garage at (704) 782-6314 so as to allow for proper notification and rescheduling of public service and school bus routes as may be necessary.

Prior to starting work at a particular crosswalk location, the Contractor shall pay special attention to weather conditions to ensure that there is a minimum site temperature of 70° F. and rising and remaining above this temperature for a minimum of 12 hours (or as specified by the coating manufacturer) and that there is no precipitation forecast for a minimum of 3-hrs. after the final coating layer is inspected to be dry to the touch.

The Contractor will be required to begin work within **one (1) month** after notification from the City on all work included in this contract or as directed by the Director or his designated representative.

The Contractor shall at all times be responsible for the supervision, conduct, and discipline of his employees and/or Subcontractors and persons employed by said Subcontractors. All foremen and workmen must have sufficient knowledge, skill, and experience to perform properly the work assigned to them. Any foreman or workman, who in the opinion of the Director, that does not perform his work in a skillful and diligent manner, or who acts in a disorderly or intemperate manner, shall be removed from any portion of the work covered by this contract by the Contractor.

When one or multi-crews are employed, there shall be a designated crew foremen or job superintendent that will represent the Contractor as a single point of contact for the crew(s).

- 4) Specifications and Regulations: All materials, processes, and methods for the work shall be provided, constructed, installed, inspected, and accepted in accordance with the Standard Specifications, the Standard Drawings, and the provisions under these General Conditions, Contract Documents, plans, details, or manufacturer's requirements and specifications therein and as generally described as follows:

Location

The work shall be performed at the location(s) specified in the Special Conditions under SPC-8. – Locations of Work

Crosswalk - Asphalt Repairs

Repairs and patching are to be made to specific areas as directed by the Director or the Director's representative. Repair work shall be accepted by the Director's representative before restamping and coloring occurs.

Mix and Placing: Be advised that the plant and all associated equipment, materials, mix design and formulas, production, storage, limitations, inspection, quality control, placing, testing requirements, etc. shall conform to Division 6 with their various sub-sections of the Standard Specifications. Tack coats shall be applied in accordance with the provisions of Section 605. Asphalt Concrete Base and /or Intermediate Courses shall be placed per appropriate, specified lift and layer depths as directed by the Director or the Director's representative. The determination of the use of sub-base material will be made by the Director or his representative.

Equipment and Hauling: Large scale spreading and finishing / leveling, as determined by the Director or his representative, shall be performed utilizing a self-contained, power propelled paver capable of placing the asphalt mixture to the required grades, cross sections, thicknesses, and widths and to uniform density and texture. Such work shall be in accordance with Division 6 and specifically Section 610-8 of the Standard Specifications. The Director or his representative may waive the requirements for use of pavers for spreading and finishing where the small size, irregularities, or obstacles make their use impractical. The Contractor shall spread, rake, and lute the mixture by hand methods in these areas.

Transportation of the mixture from the plant to the point of use shall be in vehicles which have tight, clean, and smooth metal beds with two (2) 3/8-in. diameter hole on each side of the vehicle body and 6-in. above the bed of the vehicle for the purpose of inserting a thermometer. Loads shall be covered with a canvas or other suitable material to prevent the entrance of moisture and rapid loss of heat. Such work shall be in accordance with Section 610-7 of the Standard Specifications.

Compaction, Density and Maintenance: Begin compaction of the material immediately after the material is spread, struck off, surface and edge irregularities adjusted, and shaped to the required width and depth. Compact the mix to the required degree of compaction for the type of mixture being placed and in such a manner as to obtain uniform density over the entire section. All compaction, density, joints, acceptance, and

requirements shall be in accordance with Sections 610-9, 610-10, 610-11, 610-12, and 610-13 of the Standard Specifications.

Maintenance of the patched areas in an acceptable condition until resurfacing occurs shall be in accordance with Maintenance - Section 610-(14) of the Standard Specifications.

Crosswalk – Asphalt Milling

Asphalt milling is to be made to specific areas as directed by the Director or the Director's representative. The work includes, but is not limited to milling and remilling the pavement at locations and depths, widths, and typical sections as necessary directed by the Director or the Director's representative, cleaning the milled surface, loading, hauling, stockpiling the milled material for use in recycled asphalt mixtures or the disposal of any excess milled material and all else required to the satisfaction of the City of Concord. Milling shall be accepted by the Director's representative before asphalt resurfacing, restamping, and coloring occurs.

Except where the milled material is used in the work, the Contractor is to provide areas outside the right-of-way to dispose of milled material, which becomes the property of the Contractor.

Be advised that the milling asphalt pavement requirements shall conform to Section 607 of the Standard Specifications.

Equipment: The Contractor shall provide a self-propelled unit capable of removing the existing asphalt pavement to the depths, widths, and typical sections as indicated. The equipment shall have been designed and built exclusively for pavement milling operations and shall have sufficient power, traction and stability to accurately maintain depth of cut and slope. The milling machine shall be equipped with a grade control system which will automatically control the longitudinal profile and cross slope of the milled surface by the use of either a mobile grade reference(s), an erected string line(s), joint matching shoe(s), one or more skid sensors moving along the surface suitable for leaving a uniform surface for handling traffic without excessive damage to the underlying pavement structure, or combinations of approved methods. Mobile grade reference system shall be capable of averaging the existing grade or pavement over a minimum 30-ft. distance. Coordinate the position of the grade control system such that the grade sensor is at the approximate midpoint of the mobile reference system. The milling machine and other loading equipment shall be capable of loading milled material to be used in other parts of the work without excessive segregation.

Provide additional equipment necessary to satisfactorily remove the pavement in the area of manholes, water valves, curb and gutter and other obstructions and/or utilities without damage to the utilities.

The milling equipment shall be equipped with a means of effectively limiting the amount of dust escaping from the removal operation in accordance with Federal, State, and local air pollution control laws and regulations.

Construction Requirements: The existing pavement shall be milled in a manner that will restore the pavement surface to a uniform longitudinal profile and cross section at the designated locations. Mill intersections and other irregular areas as indicated by the Director or his representative. Construction requirements will be followed from Section 607-3 of the Standard Specifications.

Tolerance: Removal of the existing pavement shall be to the depths indicated in this document. The Director or his representative may vary the depth of milling by not more than one inch. In the event the directed depth of milling per cut is altered more than one inch, either the City of Concord or the Contractor may request an adjustment in the unit price.

Note: No direct payment will be made for asphalt milling as it will be incidental to the marker operation and payment at the contract unit price for the various Pay Items in the contract will be full compensation for such work.

Crosswalk Pattern and Coatings

The decorative pattern type (new and / or repair applications) shall correspond to and match that of the existing stamped pattern type on streets in the Downtown area of the City of Concord.

Surface Preparation: The street surface of the work area shall be free of dirt, dust, organic material, oil, rubber and break residue, chemicals, and any other type debris that has the potential to detrimentally affect the bonding or adhesion of the coating system to the pavement. All detrimental items shall be removed by brushing, blowing with air, power washing, cleaning with a degreaser, rinsing, etc. to provide a surface acceptable to the Director or his designated representative.

Imprinting / Stamping of Pattern: Application of imprinting / stamping methods and procedures shall be in accordance with the manufacturer's specifications. Heat (re-heat) the street surface in the work area using heating application equipment such as infrared and / or radiant heat devices or in approved instances at isolated spots using propane torch to avoid overheating, scorching, or adversely affecting the existing asphalt street surface. Surface temperature is to be monitored by the Contractor at all times during heating process. Pavement temperature should not exceed 325° F. after the heating equipment passes over an area. If overheating occurs and smoking is noted, the Contractor shall immediately stop work. Application temperature shall be made to a minimum depth of 1/2-in. without burning or scorching the surface of the street. Depth of the imprinting / stamping process shall be as recommended by the manufacturer of the imprinting / stamping equipment for the application and the pattern used. In areas with limited accessibility, hand held finishing tools may be used as long as the approved pattern and required depth is achieved. Imprinted / stamped surface areas shall show no visible signs of structural problems or distress as determined by the Director or his designated representative.

Coatings: Coatings shall be applied as soon as possible after the imprinting / stamping is complete at a particular work location that is thoroughly clean and dry (see above) in a manner acceptable to the Director or his designated representative to provide a clean surface acceptable to the application of the coating system. Application of all coatings shall be made in accordance with the manufacturer's specifications and installation instructions. Primer or base application shall be of a type to provide excellent adhesion and bonding of the surface color layer to the roadway surface. Primer or base and / or other undercoat applications shall be of a type and chemical makeup to be compatible with surface color coatings, provide strong adhesion, excellent flexibility and resistance to abrasion. Surface coating color shall correspond to the same color pigment of the existing stamped crosswalks in the Downtown area of the City of Concord. Surface coatings shall be flexible, provide stability to chemical and UV degradation, and be resistant to abrasion. Additionally, surface coatings shall be slip and skid resistant texture that is at a minimum equivalent to the uncoated asphalt roadway surface. Final

thickness and coverage of the coatings shall be to the satisfaction of the Director or his designated representative.

The asphalt coating must also meet the following requirements:

- ASTM-D-4060, 7 day cure, 24 hour soad, H-10 wheel and have a minimum wear index of <5.0.
- ASTM G-155, QUV 2,000 hours, minimum required result - brick color $\Delta E < 1.5$.
- ASTM D522-93A Flexibility as measured by Mandrel bend, 0.5mm thick sample passes 10mm at 21°C, 0.5 mm thick sample passes 125mm at -18°C.
- ASTM D-2486 Modified MEK scrubs 16 dry mils, number of scrubs until 50% substrate exposed. Minimum required result >5000.
- ASTM D-4541, minimum required result – substrate failure.
- ASTM E-303 British Pendulum Tester, minimum required result >55.
- EPA 24 ASTM D3960-05, minimum required result VOC <150.

Only qualified applicators (as determined by the manufacture) should supply and install the asphalt pavement texturing.

Concrete

Installation and / or repair work of concrete curb and gutter sections, wheelchair ramps, and sidewalk sections will be at locations designated in the Special Conditions or by the Director or the Director's representative. The work includes, but is not limited to providing all materials, placing all materials, excavating and backfilling, sawing, cutting, demolition of designated, forming, placing / pouring of all concrete, finishing, constructing and sealing joints, disposal of removed concrete, incidentals, and all else required to the satisfaction of the City in accordance with Division 8 and specifically Sections 846 and 848 of the Standard Specifications and the Standard Drawings.

Material Specifications: All materials used are to be in accordance with Division 10 of the Standard Specifications. Concrete shall be non-tinted.

Portland cement concrete.....	Section 1000
Curing agents for concrete.....	Section 1026
Joint Materials.....	Section 1028

Construction: All sections to be removed shall be saw cut (approximately 2-in. deep or removed at a joint) to the direction of the Director or the Director's representative. Installation / construction shall be in accordance with Section 825 of the Standard Specifications and given a sidewalk finish. Use Class B concrete.

Curb and Gutter - Prepare foundation and compact base or subgrade to the degree required by the applicable Section(s) of the Standard Specifications or direction of the Director or the Director's representative. Space joints no closer than 5-ft. Install joints as required by Section 846 of the Standard Specifications. finish surface within ¼-in. when check longitudinally with a 10-ft. straightedge. Wheelchair access points to streets shall be in accordance with Standard Drawings.

Do not place blackfill adjacent to fresh concrete until at least 3 curing days. Complete backfill within 4 calendar days after the completion of the 3-day curing period. Compact backfill to the satisfaction of the City's representative. Do not place vehicles on the completed work until after 7 curing days or 3 curing days if "High Early Strength Concrete" is used.

Wheelchair Ramps and Sidewalks - Wheelchair access points to streets shall be constructed in accordance with Standard Drawings. Any adjoining sidewalk sections as specified by the Director or the Director's representative shall be constructed in accordance with the requirements of the City of Concord. Detectable warning dome mats shall be of the "insert" type, be of a red color, comply with Standard Drawing 848.05 and be approved by the Director or the Director's representative.

Sidewalk width shall be as designated by the Director or the Director's representative. Where sidewalks are less than 5-ft. wide, a passing zone shall be installed at the direction of the Director or the Director's representative. Sidewalk joint spacing shall be no less than 5-ft. Where construction crosses a driveway, the sidewalk shall be 6-in. thick. "High Early Strength Concrete" is to be placed at driveway crossings or as specified by the on-site City Inspector. Seal expansion joints where sidewalk and wheelchair ramps are placed adjacent to the curb and gutter. Do not seal groove joints. Sidewalks are to be sloped at 1/4-in./ 1-ft. towards the gutter and shall have a light broom finish.

Do not place blackfill adjacent to fresh concrete until at least 3 curing days. Complete backfill within 4 calendar days after the completion of the 3-day curing period. Compact backfill to the satisfaction of the Director or the Director's representative. Do not place vehicles on the completed work until after 7 curing days or 3 curing days if "High Early Strength Concrete" is used.

Acceptance: Acceptance of the concrete work shall be to the satisfaction of the Director or the Director's representative.

Opening of Work Areas to Traffic

Do not place pedestrians and vehicles on the completed work until minimally dried to 100% and cured to a point whereby damage to the coating by pedestrian and tire tracking will not occur. Contractor shall pay close attention to the coating manufacturer's guidelines for drying times based on atmospheric and substrate conditions. Artificial means to speed up drying times is not allowed unless specifically expressed in the coating manufacturer's specifications.

Inspection and Acceptance

Inspection, quality control management and any required testing for the work shall be in accordance with the requirements of the stamping and coating system approved by the Director. Acceptance of the work shall be to the satisfaction of the Director or his designated representative. Damaged pavement or flawed coating areas shall be repaired or replaced in an acceptable manner to the Director by the Contractor at no additional cost to the City.

Responsibilities of the Contractor shall be in accordance with Division 1 of the Standard Specifications and in accordance with the requirements shown in the Contract Documents.

The Contractor shall furnish the applicable certifications and documentation for all materials. Material that is not properly certified will not be accepted.

If any device, design, material or process covered by letters, patent or copyright is used by the Contractor, he shall provide for such use by legal agreement with the owner of the patent or a duly authorized licensee of such owner, and shall hold harmless the City from any and all loss

or expense on account thereof in accordance with the first paragraph of this subsection, including its use by the City.

The Contractor shall keep himself fully informed of, comply with, give all notices, and secure all permits and approvals associated with Federal, State and local laws, regulations, codes and ordinances in any manner affecting the work, and all such orders and decrees as exist, or may be enacted by bodies having any jurisdiction or authority over the work, and shall indemnify and hold harmless the City against any claim or liability, including the cost of defense and attorney's fee arising from, or based on, the violation of any such laws, regulations, codes, ordinances, order or decree, whether by himself or his employee.

The Contractor shall not enter upon private property for any purpose without obtaining permission, and shall be responsible for the preservation of all public property and other items, along and adjacent to the street right-of-way. The Contractor shall use every suitable precaution to prevent damage to such items and especially including vehicles, structures, poles, wires, conduits, underground infrastructure, signs, pavement, monuments, and property marks in the vicinity of the work.

Pedestrian Control, Traffic Control, Safety, and Security

All pedestrian control, traffic control, safety, and security associated with the entire work shall be in accordance with Part 6 of the Manual on Uniform Traffic Control Devices (MUTCD) latest Edition, OSHA, and any other applicable federal, state and local laws and regulations and shall be the responsibility of the Contractor. The Contractor is required to maintain traffic in accordance with Section 105 of the Standard Specifications. The Contractor shall not close a lane of traffic, detain and/or alter the traffic flow on or during holidays, holiday weekends, special events, or any other time when traffic is unusually heavy. Work shall only be performed when weather and visibility conditions allow safe operations. All hazards associated with the work that may pose as a danger and hazard shall be protected outside of working hours. The Contractor is responsible for operating traffic control correctly. At least one member of each crew on the project site shall be certified in the Work Zone Traffic Control. If the Contractor fails to provide proper traffic control, the Director or a representative of the Director has the authority to cease all operations and the contractor will not be allowed to continue for that day on this contract. This will result in the loss of production for this day and is not a legitimate claim for contract time extension.

Unless approved by the Director, work shall not be performed before sunrise or after sunset. Any such work shall be in compliance with Section 107 of the Standard Specifications. Artificial lighting, as may be necessary to provide for safe and proper construction and to provide for adequate inspection of the work as described in Section 1413 of the Standard Specifications, shall be provide by the Contractor. No direct payment will be made for any items as covered in Section 1413 as such will be considered incidental to other pay items of the work.

The Contractor shall operate his equipment and conduct his operation in the same direction as the flow of traffic. Work shall be done in accordance with Section 150 of the Standard Specifications. The Contractor shall temporarily remove his equipment from the travelway for emergency vehicles and school buses as directed by the Director or the Director's representative.

Note: No direct payment will be made for any pedestrian control, traffic control, safety, and security work, as it will be incidental to the marker operation and payment at the contract unit price for the various Pay Items in the contract will be full compensation for such work.

- 5) Posted Weight Limits: The Contractor's attention is directed to the fact that certain bridges in the City of Concord have posted weight limits. The Contractor will not be allowed to exceed the posted weight limits in transporting materials or equipment to the project. The Contractor should make a thorough examination of all maps and haul routes (both City and NCDOT facilities) on this project.
- 6) Utility Locations, Conflicts, and Coordination: The Contractor shall be solely responsible for contacting the appropriate utility or agency in the work areas and for the exact locations for all overhead or underground utility or services before starting work. It shall be the sole responsibility of the Contractor to verify the location of all utilities and services along and in the work area and to protect such from uninterrupted service. The Contractor shall adhere to all applicable regulations and follow accepted safety procedures when working in the vicinity of utilities in order to insure the safety of construction personnel and the public.

Any utility or service that, in the opinion of the Contractor, will have to be made safe or temporarily relocated in order to perform the work shall be coordinated between the Contractor and the applicable utility or service provider.

Protection of all public and private property on and adjacent to the work and responsibility to the public shall be in accordance with Section 107 of the Standard Specifications

Note: No direct payment will be made for this work, as it will be incidental to the project work and payment at the contract unit price for the various Pay Items in the contract will be full compensation for such action.

- 7) Site Security, Sanitary Provisions, Clean-Up, Pollution Control and Storage: The Contractor shall at all times so conduct the work as to insure the least possible obstruction to pedestrians, traffic and inconvenience to the general public and businesses in the vicinity of the work, and to insure the protection of persons and property in a manner satisfactory to the City. No road shall be closed to the public except with the permission of the Director. Fire hydrants on or adjacent to the work shall be kept accessible to fire-fighting equipment at all times.

The Contractor shall provide such sanitary accommodations for the use of his employees as may be necessary to comply with the requirements and regulations of the local and State health authorities in accordance with Section 107-7 of the Standard Specifications.

At the end of each workday, the Contractor shall clean the site of any non-structural component debris materials, which result from the work and secure the work from any hazardous condition. The Contractor shall provide for the control of any erosion, siltation, and pollution in accordance with Section 107-13 of the Standard Specifications. The Contractor or his Subcontractor will haul away any such debris or waste material to an approved public receiving facility at his expense. All debris or waste materials permanently removed are the property of the Contractor.

The Contractor is responsible for off-site storage of his trucks, equipment and associated material including securing any agreements or temporary construction easement for such location(s).

Note: No direct payment will be made for this work, as it will be incidental to the project work and payment at the contract unit price for the various Pay Items in the contract will be full compensation for such action.

- 8) City Privilege License: The selected Contractor and any Subcontractor(s) will be required to hold a current City of Concord Privilege License. Contact the City of Concord Tax Office at 704-920-5216 for information with regards to this requirement.
- 9) Insurance: The Contractor shall procure and maintain insurance for the contract time by the Contractor, at his own expense, in an amounts and coverage as stated in **Sec. 7. of the CONSTRUCTION CONTRACT FOR Rehabilitation of Decorative Asphalt Crosswalks FY 13.**

Certificates of Insurance and proof thereof shall be furnished to the Transportation Director and approved by the City of Concord Safety, Health and Risk Manager and City Attorney(s) prior to commencement of the work. For further information with regards to what is required on the Certificates of Insurance, refer to the spreadsheet for other information and directions for insurance certificates following **EXHIBIT "D" ATTACHMENT SHEET FOR CERTIFICATE (S) OF INSURANCE.** These certificates shall contain a provision that coverage's afforded under the policy will not be cancelled unless at least **thirty (30)** days prior written notice has been given the City.

- 10) Indemnity: Refer to **Sec. 13. of the CONSTRUCTION CONTRACT FOR Rehabilitation of Decorative Asphalt Crosswalks FY 13.**
- 11) Contract Administration: The general responsibility for the administration of this contract will be done by the Director or the Director's representative. All work, reports, and requests for payment shall be subject to inspection and evaluation by the Director, the Director's representative, or designated representatives of the City of Concord Business and Neighborhood Services Department at any time.

The Director acting directly or through his duly authorized representatives will decide all questions which may arise as to the quality and acceptability of the work performed and as to the rate of progress of the work; all questions which may arise as to the interpretation of the contract; and all questions as to the acceptable fulfillment of the contract on the part of the Contractor. The Director's decision shall be final and shall have executive authority to enforce and make effective such decisions and orders if the Contractor fails to carry out promptly.

- 12) Method of Measurement: Measurement of the work will be made based on the actual and verified quantities which has been satisfactorily completed, measured and accepted in place by the City as under the specific Pay Item Units as provided on the Quote Form. Quantities indicated on the Quote Form are estimated and are not guaranteed; they are solely for comparing quotes.
- 13) Basis of Payment and Requests for Payment: As follows:

The quantities of repainting existing decorative asphalt crosswalk, measured as provided above, will be paid for at the quoted unit price of per square foot (sq. ft.) for "Repainting of Existing Decorative Asphalt Crosswalks."

The quantities of restamping and painting of existing stamped asphalt crosswalk, measured as provided above, will be paid for at the quoted unit price of per square foot (sq. ft.) for "Restamping and Repainting of Existing Decorative Asphalt Crosswalks."

The quantities of rehabilitating by milling, patching, restamping and repainting of existing stamped asphalt crosswalk, measured as provided above, will be paid for at the quoted unit

price of per square foot (sq. ft.) for "Rehabilitating by Milling, Patching, Restamping and Repainting of Existing Decorative Asphalt Crosswalks."

The quantities of ADA wheelchair ramps, measured as provided above, will be paid for at the quoted unit price of each (ea.) for "ADA Wheelchair Ramps and Other Concrete Work."

Note: No direct payment will be made for installing and / or repairing concrete curb and gutter, sidewalks and driveways as it will be incidental to the ADA Wheelchair Ramp and other concrete work operation and payment for this Pay Item under the contract will be full compensation for such work.

Additionally: There will be no direct payment made for any item of work not specifically listed as a quoted Pay Item on the Quote form. Payment(s) and full compensation for all the work will be based on the actual accepted Pay Item quantities installed and shall include any and all related items as specified in the Project Information and Standard Specifications or any Special Provisions attached hereto including, but is not limited to, all mobilization(s), demobilization(s), special subcontracting, handwork, tools, labor, rentals, equipment, materials, signs, barricades, miscellaneous hardware, consumables, other incidentals, security of the work, traffic and pedestrian control and safety operations, cleanup, removal of any debris, and disposal(s), touch-up repairs, permits and licenses, and all else required as necessary to the satisfaction of the Director and the City of Concord.

Any theft of materials, damage, or vandalism to the work that occurs during construction, as noted by the Director or his representative, shall be repaired or replaced at the expense of the Contractor at no cost to the City. Contractor will insure the work until such is completed and accepted by the City.

Forms for billing the City for services performed are to be made on forms provided by the City of Concord Finance Department. No other forms will be accepted by the City and processed for payment. The Contractor shall submit monthly invoices (if the work goes beyond one month) by the 25th day of each month, which shall be processed for payment **thirty (30) days** after receipt. Invoices and time sheets shall be in duplicate – one original set to be attached to invoices for City of Concord Finance Department and one copy to be filed with the Transportation Department.

- 14) Oral Agreements and Claims for Additional Compensation: No oral order, objection, claim or notice by any party to the others shall effect or modify any of the terms of obligations contained in any of the contract documents other than by a definitely agreed upon waiver or modification by both the Contractor and the City in writing.

Any claims for additional compensation shall be submitted in writing to the Director with detailed justification within **thirty (30) days** after receipt of the final invoice payment. The failure of the Contractor to submit the claim(s) within thirty days shall be a waiver of any such claims and a bar to recovery.

- 15) Contract Time and City's Right to Terminate Contract: This contract shall commence on the effective date given in the Contract Agreement and shall be effective for a period of **Sixty (60) Days**. Any requests for extensions to the contract time shall be made in writing by the Contractor and approved by the Director. The City shall have the right to suspend work or to terminate the contract after giving at least **ten (10) days** written notice of suspension or termination to the Contractor.

- 16) Subletting of Contract: The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of this contract or any portion thereof, or his right, title or interest therein, without written consent of the City. Subletting of this contract or any portion of the contract shall conform to the provisions of these General Conditions and the Standard Specifications Section 108-6.
- 17) Notices to Proceed: The Contractor shall be ready to perform work operations and stand on emergency call, if necessary, as soon as possible after the issuance of a City Purchase Order Number / Notice to Proceed, but in no event delay the onset of work operations later than one (1) month of delivery of said City Purchase Order Number / Notice to Proceed.
- 18) Litigation Venue: Any controversy or litigation arising out of this contract shall be resolved in the courts of Cabarrus County, North Carolina. Also refer to **Sec. 15.** of the **CONSTRUCTION CONTRACT FOR Rehabilitation of Decorative Asphalt Crosswalks FY 13.** This contract shall be subject to the laws of the State of North Carolina and with respect to this Part 15, time is of the essence.
- 19) Submission and Rejection of Quotes: No quoter may submit more than one quote. Multiple quotes under different names will not be accepted from one firm or association. A conditional quote will not be accepted. Oral, telephone, facsimile, or telegraph quotes will not be accepted. The Quote form must be filled out and submitted in the bound documents. All quotes will remain subject to acceptance for the number of days set forth in the Quote Form. The City of Concord reserves the right to reject any or all quotes.
- 20) Liquidated Damages: The City and Contractor recognize that time is of the essence of this contract and that the City will suffer financial loss if the work is not completed within the contract specified time, plus any extensions thereof allowed in accordance with Section 15 of the General Conditions. They also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by the City if the work is not completed on time. Accordingly, instead of requiring any such proof, the City and Contractor agree that as liquidated damages for delay (but not as a penalty) the Contractor shall pay the City **\$200.00** for each calendar day that expires after the contract specified time until the remaining / outstanding work (punchlist) is performed by the Contractor and until such time as punchlist completion and readiness for final payment is made.

In case of joint responsibility for delay in the completion of the work, where two or more separate contracts are in force at the same time and cover work at the same site, liquidated damages assessed against any one Contractor will be based upon the individual responsibility of that Contractor for the delay as determined by, and in the judgment of, the Director.

The City shall have the right to deduct the liquidated damages from any money in its hands, otherwise due, or to become due, to the Contractor, or to initiate applicable dispute resolution procedures and recover liquidated damages for nonperformance of this contract within the specified time of the contract.

Quotes are to be submitted to the following address by **May 9, 2013**

J. K. Wilson, III, P.E., Transportation Director
City of Concord
850 Warren C. Coleman Blvd.

P.O. Box 308
Concord, NC 28026-0308

Please note on envelope
Quote Included –
Rehabilitation of Decorative Asphalt Crosswalks FY 13

- Continued Next Page –



QUOTE FORM

Rehabilitation of Decorative Asphalt Crosswalks FY 13.

Pay Item	Pay Item Description – Base Quote	Quantity	Units	Unit Price	Amount (\$) Quoted
1	Repainting of Existing Decorative Asphalt Crosswalks	1470	Sq. Ft.		
2	Restamping and Repainting of Existing Decorative Asphalt Crosswalks	1571	Sq. Ft.		
3	Rehabilitating by Milling, Patching, Restamping and Repainting of Existing Decorative Asphalt Crosswalks	-	Sq. Ft.	-	-
Total – Base Quote - Pay Items 1, 2, and 3					
Pay Item	Pay Item Description – Alternate Quote	Quantity	Units	Unit Price	Amount (\$) Quoted
A1	Repainting of Existing Decorative Asphalt Crosswalks	2874	Sq. Ft.		
A2	Restamping and Repainting of Existing Decorative Asphalt Crosswalks	-	Sq. Ft.	-	-
A3	Rehabilitating by Milling, Patching, Restamping and Repainting of Existing Decorative Asphalt Crosswalks	-	Sq. Ft.	-	-
A4	ADA Wheelchair Ramps	-	Ea.	-	-
Total – Alternate Quote - Pay Items A1, A2, A3, and A4					
Total – Base and Alternate Quotes - All Pay Items					

Contractor: _____

(Insert exact legal name of corporation, joint venture, business, etc. here)

License Number: _____

Mailing/Billing Address: _____

City, State ZIP _____

Telephone Number: _____

Signed by Authorized Agent: _____ Date _____

Print Name _____ Title _____

1. This quote shall not add any unauthorized additions, deletions, or conditional quotes.
2. Quoter agrees that any and all Excavations are unclassified.

3. This quote will remain subject to acceptance for **30** days after the date of submittal given above and that once accepted and the Contract executed between the City and the Contractor that the unit prices shall remain as submitted herewith for a period of **365** days.
4. Quoter agrees that the work will be substantially complete within **45** days, and completed and ready for final payment on or within **60** days after the effective date of the contract.

Do Not Separate the Quote Form from the quoting packet.



**TRANSPORTATION DEPARTMENT
EXHIBIT "B"**

**SPECIAL CONDITIONS
Rehabilitation of
Decorative Asphalt Crosswalks FY 13.**

SC-1. – Questions by Quoters

All questions about the meaning or intent of the quoting documents and the contract documents shall be submitted to the Director at 704-920-5362 for consideration at that time. Any interpretations or clarifications considered necessary by the Director in response to such questions will be issued by Addenda mailed, Faxed or delivered to all parties recorded by the Transportation Department as having received the quoting documents. No Questions will be answered 48 hours in advance of submission of quotes. Only answers issued by Addenda will be binding. Oral and other interpretations or clarifications will be without legal effect.

SPC-2. – General Instructions to Quoters

- The Quote Form furnished by the City with the proposal shall be used and shall not be altered in any manner. Do not separate the Quote Form from the Quoting Packet.
- All entries on the Quote Form, including signatures, shall be written in ink.
- The Quoter shall submit a unit price for every item on the Quote Form.
- An amount quoted shall be entered on the Quote Form for every item. The amount quoted for each item shall be determined by multiplying each unit quoted by the quantity for that item.
- The total amount Quoted shall be written in the proper place on the Quote Form. The total amount shall be determined by adding the amounts quoted for each item.
- Changes in any entry shall be made by marking through the entry in ink and making the correct entry adjacent thereto in ink. A representative of the Quoter shall initial the change in ink.
- The Quote shall be properly executed. All Quotes shall show the following information:
 - a. Name of individual, firm, corporation, partnership, or joint venture submitting quote.
 - b. Name of individual or representative submitting quote and position or title.
 - c. Name, signature, and position or title of witness.
 - d. Contractor's License Number
- Quotes submitted by corporations shall bear the seal of the corporation.
- The Quote shall not contain any unauthorized additions, deletions, or conditional quotes.
- The Quoter shall not add any provision reserving the right to accept or reject an award, or to enter into a contract pursuant to an award.

SPC-3. – System Information – Quoters shall present imprinting / stamping / coloring system specifications and procedures to the Director as part of their quote.

SPC-4. – Award

After evaluation of the quotes, the Director reserves the right to accept both the BASE QUOTE and the ALTERNATE QUOTE, accept the BASE QUOTE and reject the ALTERNATE QUOTE or reject both the BASE QUOTE and the ALTERNATE QUOTE. The award of the contract , if so determined by the Director,

will be made to the lowest responsible Quoter. The Director will notify that his/her bid has been accepted and that he/she has been awarded the contract. The City of Concord reserves the right to reject all quotes.

SPC-5. – Bonding

A Bond for *quoting* the work is not required.

Under the terms and conditions of the Standard Form Construction Contract (see Sec. 16. Bonding), the selected Contractor may be required to furnish to the City before construction begins a Performance and a Payment Bond each in the amount 100% of the accepted Quote made payable on sight to the City of Concord. This Bond shall be conditioned upon the faithful performance of this Contract.

SPC-6. – Sales Taxes

Provisions for sales and use taxes are as set forth by the requirements and direction of the City of Concord Finance Department. Any questions with regards to such shall be coordinated through the City of Concord Finance Department.

SPC-7. – Retainage

Refer to Sec. 4a. – Retainage of the Standard Form Construction Contract with regards to retainage.

SPC-8. – Work Locations (BASE and ALTERNATE QUOTES):

BASE QUOTE Location – Intersections of:

- Cabarrus Ave., W and Spring St.
- Cabarrus Ave., W and Market St.
- Cabarrus Ave., W and Union St

ALTERNATE QUOTE Location – Intersections of:

- Union St., S and Corban St., SW
- Spring St., SW and Corban St., SW

SPC-9. – Note Concerning the Work. All work will be under the direction of the Director's representative and, if directed, will include saw cutting and the milling out of existing asphalt approximately 3-in. deep (to underlying concrete). After cleaning, install matting fabric in the bottom of the cut; tack and install new S9.5 C asphalt pavement surface in the cut in accordance with the NCDOT's "Standard Specifications for Roads and Structures." Restamp and repaint decorative crosswalk application on new surface areas. The work may require matting fabric acceptable to the City of Concord.

SPC-10. – Subcontracting

Subcontracting or subletting shall be in accordance with Sec. 16 of Exhibit A and Subcontractors met the same terms under stated under the contract documents and shall met the same requirements for licensure and insurance as the Contractor.

EXHIBIT "C"

NOTICE OF AWARD AND ACCEPTANCE OF NOTICE

TO:

FROM: City of Concord
P.O. Box 308 - 26 Union Street, South
Concord, North Carolina 28026-0308

PROJECT: Rehabilitation of Decorative Asphalt Crosswalks FY 13

You are hereby notified that the quote submitted by you for the above named project in response to the City of Concord's solicitation for quotes dated May 2, 2013 in the amount of _____ has been accepted.

You are hereby requested to execute the formal contract with the City of Concord and to furnish any and all Contractor's Certificate of Insurance, Performance Bond, Payment Bond, and associated Power of Attorney(s) along with other documents pertaining to the work as designated by the City of Concord.

Dated this the ____ day of _____, 2013

City of Concord, North Carolina

By: _____
Title: City Manager

ACCEPTANCE OF NOTICE

Receipt of the above **NOTICE OF AWARD** is hereby acknowledged this the ____ day of _____, 2013.

Witness

By: _____
Title: _____

Rehabilitation of Decorative Asphalt Crosswalks FY 13



EXHIBIT "D"
ATTACHMENT SHEET FOR
CERTIFICATE(S) OF INSURANCE

(Refer to the Standard Form Construction Contract Sec. 7)

TRANSPORTATION DEPARTMENT

P.O. Box 308 - 850 Warren C. Coleman Blvd.
Concord, North Carolina 28026-0308
704-920-5331



EXHIBIT "E"
ATTACHMENT SHEET FOR
PERFORMANCE and PAYMENT BONDS

TRANSPORTATION DEPARTMENT

P.O. Box 308 - 850 Warren C. Coleman Blvd.
Concord, North Carolina 28026-0308
704-920-5331

Rehabilitation of Decorative Asphalt Crosswalks FY 13

PERFORMANCE BOND

Date of Execution of this Bond

Name and Address of
Principal (Contractor)

Name and Address
of Surety

Name and Address of
Contracting Body

City of Concord
26 Union St., South P.O. Box 308
Concord, N. Carolina 28025

Amount of Bond

Contract

That certain contract by and between the Principal and the
Contracting Body above named dated Notice to Proceed
Date specified on EXHIBIT G for Rehabilitation of Decorative
Asphalt Crosswalks FY 13

KNOW ALL MEN BY THESE PRESENTS, that we, the PRINCIPAL and SURETY above named, are held and firmly bound unto the above-named Contracting Body, hereinafter called the Contracting Body, in the penal sum of the amount stated above for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal entered into a certain contract with the Contracting Body, identified as shown above and hereto attached;

NOW THEREFORE, if the Principal shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said contract during the original term of said contract and any extensions thereof that may be granted by the Contracting Body, with or without notice to the Surety, and during the life of any guaranty required under the contract, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of the contract that may hereafter be made, notice of which modifications to the Surety being hereby waived, then, this obligation to be void; otherwise, to remain in full force and virtue.

PERFORMANCE BOND: (Continued)

THIS PERFORMANCE BOND is made and given pursuant to the requirements and provisions of Section 129 of Chapter 143 of the General Statutes of North Carolina and pursuant to Article 3 of Chapter 44-A of the General Statutes of North Carolina, and each and every provision set forth and contained in Section 129 of Chapter 143 and in Article 3 of Chapter 44-A of the General Statutes of North Carolina is incorporated herein, made a part hereof, and deemed to be conclusively written into this Bond.

IN WITNESS WHEREOF, the above-bounden parties have executed this instrument under their several seals as of the date indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned and representative, pursuant to authority of its governing body.

WITNESS:

(Proprietorship or Partnership)

Principal (Name of individual and trade name,
partnership, corporation, or joint venture)

BY _____(SEAL)

TITLE _____
(Owner, Partner, Office held in
corporation, joint venture)

ATTEST: (Corporation)

(Corporate Seal of Principal)

BY _____

TITLE _____
(Corporation Secretary or
Assistant Secretary Only)

Surety (Name of Surety Company)

WITNESS:

BY _____

TITLE _____ Attorney in Fact

(Corporate Seal of Surety)

COUNTERSIGNED:

(Address of Attorney in Fact)

N.C. Licensed Resident Agent



EXHIBIT "F"
FINANCE DEPARTMENT
SUPPLIED FORMS

(Refer to the following forms for Sales Tax and Payment Requests.)

TRANSPORTATION DEPARTMENT

P.O. Box 308 - 850 Warren C. Coleman Blvd.
Concord, North Carolina 28026-0308

Rehabilitation of Decorative Asphalt Crosswalks FY 13

OWNER: CITY OF CONCORD CONTRACTOR: _____
PROJECT: DECORATIVE ASPHALT CROSSWALKS FY 13 _____

[illegible]

I certify that the above listed vendors were paid sales tax upon purchases of materials during the period covered by the Construction Estimate, and the property upon which such taxes were paid with or will be used in the performance of this contract. No tax on purchases or rentals of tools and/or equipment is included in the above list. All of the materials above became a part of or is annexed to the building or structure being erected, altered or repaired.

Title: _____

SWORN AND SUBSCRIBED BEFORE
ME THIS _____ DAY OF _____, _____.

NOTARY PUBLIC
MY COMMISSION EXPIRES:

City of Concord
Post Office Box 308
Concord, North Carolina 28026-0308

For Office Use Only:

Charge to P.O. # _____

Due _____

PROJECT:

Date Notice to Proceed: _____

Completion Date: _____

Days Remaining in Contract: _____

Percent Work Complete: _____

Percent Time Complete: _____

Percent Payment Complete: _____

APPLICATION FOR PAYMENT NO. _____ SHEET NO. _____ OF _____

PERIOD FROM: _____ TO: _____

CERTIFICATE OF THE CONTRACTOR

To the best of my knowledge and belief, I certify that this periodical estimate is correct and all work has been performed and materials supplied in full accordance with the terms and conditions of the contract documents between the undersigned contractor and the City of Concord.

GROSS AMOUNT OF PARTIAL PAYMENT -- \$

LESS: RETAINAGE AT 0 PERCENT----- \$

PREVIOUS PAYMENT ----- \$

LIQUIDATION DAMAGES

____ DAYS @ \$ _____ ----- \$

OTHER DEDUCTIONS:

_____ ----- \$

_____ ----- \$

TOTAL DEDUCTIONS ----- \$

NET AMOUNT DUE THIS ESTIMATE ----- \$

Name of Contractor: _____ Address: _____

Signed: _____ Title: _____ Date: _____

CERTIFICATE OF CONSTRUCTION ADMINISTRATOR/ENGINEER

I certify that I have verified this periodical estimate and that to the best of my knowledge and belief, it is a true and correct statement of work performed and materials supplied under the contract.

Consultant Engineer: _____ Date: _____

Construction Administrator: _____ Date: _____

**APPROVED AND PAYMENT RECOMMENDED:
CITY OF CONCORD**

Signed: _____ Title: _____ Date: _____

704-920-5331

EXHIBIT "G"

**NOTICE TO PROCEED
(DATE OF AVAILABILITY)**

TO:

FROM: City of Concord
P.O. Box 308 - 26 Union Street, South
Concord, North Carolina 28026-0308

PROJECT: Rehabilitation of Decorative Asphalt Crosswalks FY 13

PROJECT DESCRIPTION: The work consist of the selected Contractor providing for the rehabilitation of decorative asphalt crosswalks in the Downtown section of the City of Concord as designated including, but is not limited to, all mobilization(s), demobilization(s), special subcontracting, handwork, tools, labor, rentals, equipment, materials, signs, barricades, miscellaneous hardware, consumables, other incidentals, security of the work, traffic and pedestrian control and safety operations, cleanup, removal of any debris, and disposal(s), repairs, touch-ups, permits and licenses, and all else required as necessary to the satisfaction of the Director and the City of Concord.

You are hereby formally notified to commence work on the ____ day of ____, 2013 (NOTICE TO PROCEED date) under the assigned City of Concord Purchase Order No. _____ in accordance with the contract documents for the work.

Dated this the ____ day of ____, 2013

City of Concord, North Carolina

By: _____
Title: City Manager

Rehabilitation of Decorative Asphalt Crosswalks FY 13

STANDARD FORM CONSTRUCTION CONTRACT

This contract is made and entered into as of the Notice to Proceed date specified on EXHIBIT G, by the City of CONCORD ("City") and _____ ("Contractor"), (x) a corporation, () a professional corporation, () a professional association, () a limited partnership, () a sole proprietorship, or () a general partnership; organized and existing under the laws of the State of _____.

Sec. 1. Background and Purpose. This contract is for rehabilitation of decorative asphalt crosswalks in the Downtown section of the City as part of its Downtown Streetscape Program. The Contractor shall keep himself fully informed of all Federal, State, and local laws, ordinances, and regulations.

Sec. 2. Services and Scope to be Performed. The Contractor shall provide for the rehabilitation of decorative asphalt crosswalks in the Downtown section of the City of Concord at locations specified in the Special Conditions including, but is not limited to, all mobilization(s), demobilization(s), special subcontracting, handwork, tools, labor, rentals, equipment, materials, signs, barricades, miscellaneous hardware, consumables, other incidentals, security of the work, traffic and pedestrian control and safety operations, cleanup, removal of any debris, and disposal(s), touch-up repairs, permits and licenses, and all else required as necessary to the satisfaction of the Director and the City of Concord at the charges set forth either in this paragraph or in Exhibit "A". Additional Exhibits may be used to further define this Agreement when the Contractor and City so agree. Any additional exhibits shall be designated as exhibits to the Agreement with capitalized, sequential letters of the alphabet, shall be attached hereto and incorporated herein by reference as if the same were fully recited, and shall become terms of this Agreement upon execution by both parties. All work and materials shall meet and be in accordance with the provisions of the North Carolina Department of Transportation Standard Specifications for Roads and Structures, Latest Edition, the North Carolina Department of Transportation Roadways Standards Drawings, Latest Edition and the Manual on Uniform Traffic Control Devices, Latest Edition. The Contractor shall keep himself fully informed of all Federal, State and local laws, ordinances, and regulations.

In this contract, "services" means the services that the Contractor is required to perform pursuant to this contract and all of the Contractor's duties to the City that arise out of this contract. Any amendments, corrections, or change orders by either party must be made in writing signed in the same manner as the original. (This form may be used for amendments and change orders.) The City reserves the right to refuse payment for any work outside that authorized herein or pursuant to a duly approved amendment or change order.

Sec. 3. Complete Work without Extra Cost. Unless otherwise provided, the Contractor shall obtain and provide, without additional cost to the City, all labor, materials, equipment, transportation, facilities, services, permits, and licenses necessary to perform the Work.

Sec. 4. Compensation. The City shall pay the Contractor for the Work as described in this paragraph below OR as described in Exhibit A attached. In the event of a conflict, the provisions of this paragraph shall control. Any additional expenses or charges shall only be paid after both the City and the Contractor agree to and execute a written change order. The City shall not be obligated to pay the Contractor any fees, payments, expenses or compensation other than those authorized in this contract or in a duly-approved change order.

Sec. 4a. Retainage. The City shall withhold no retainage on Contracts having a "total project cost" of less than \$100,000.00. The City may withhold retainage on contracts having a total project cost between \$100,000 and \$299,000. The City shall withhold retainage on contracts whose total project cost exceeds \$300,000. When withheld, retainage shall equal no more than five percent of each progress payment. When the project is fifty per cent complete, the City shall not retain anything from future project payments provided that (i) the surety concurs in writing, (ii) the Contractor continues to perform satisfactorily, (iii) any non-conforming work identified in writing by the architect, engineer(s) or City has been corrected by the Contractor and accepted by the architect, engineer(s) or City. However, if the City determines that the Contractor's performance is unsatisfactory, the City may withhold up to five percent retainage from each project payment. The City may withhold additional amounts above five percent for unsatisfactory job progress, defective construction not remedied, disputed work, third party claims filed against the owner or reasonable evidence that a third-party claim will be filed.

Definitions:

"Total Project Cost": Total value of the Contract and any approved change orders or amendments.

"Project Fifty Percent Complete": When the Contractor's gross project invoices (excluding the value of the materials stored off-site) equal or exceed fifty percent of the value of the contract, except that the value of materials stored on-site shall not exceed twenty percent of the Contractor's gross project invoices for the purpose of determining whether the project is fifty percent complete.

Sec. 5. Term. This Contract shall begin on Notice to Proceed Date specified on EXHIBIT G and end Sixty (60) days thereafter and this date being set as the "Completion Date". This Contract shall not be automatically extended unless agreed to in writing by the City or as provided in Exhibit "A". Time is of the essence with regard to this Project. If Contractor's obligations are not completed by the Completion Date, the City reserves the right to nullify this Agreement, order the Contractor to immediately cease all work under this Agreement and vacate the premises, and to seek professional services equivalent to those outlined in Exhibit "A." The Contractor shall be held accountable for all damages incurred by the City as a consequence of the missed Completion Date. The exercise of any of these rights by the City shall not be interpreted to prejudice any other rights the City may have in law or equity. This Contract shall not be automatically extended unless agreed to in writing by the City or as provided in Exhibit "A".

Sec. 6. Contractor's Billings to City. Payments will be made in accordance with the schedule found in this section below OR attached at Exhibit A. Contractor shall submit an original pay request (invoice) to the City Purchasing Agent by the first of each month in order to expedite payment. Upon receipt of the request the City Purchasing Agent shall verify the amounts and if correct forward the request to the Accounts Receivable Division of the Finance Dept. Final payment on the contract shall be made in 45 days, except in the case of retainage. Within 60 days after the submission of the final pay request, the City (with the written consent of the surety) shall release to the Contractor all retainage payments IF the City receives a certificate of substantial completion from the architect, engineer or designer-in-charge of the project OR the City receives beneficial occupancy and use of the project. In either case, the City may retain up to 2.5 times the estimated value of the work to be completed or corrected.

Sec. 7. Insurance. Contractor shall maintain and cause all sub-contractors to maintain insurance policies at all times with minimum limits as follows:

<u>Coverage</u>	<u>Minimum Limits</u>
Workers' Compensation	\$100,000 each accident, \$100,000 bodily injury by disease each employee, \$500,000 bodily injury by disease policy limit
General Liability	\$1,000,000 per occurrence regardless of the contract size
Automobile Liability	\$1,000,000 per occurrence regardless of the contract size
Umbrella	<input type="checkbox"/> \$1,000,000 per occurrence if contract does not exceed 180 days and does not exceed \$500,000; otherwise, <input checked="" type="checkbox"/> \$2,000,000

Contractor shall provide a Certificate of Insurance to the City listing the City as an additional insured. Such Certificate shall be in a form acceptable to the City.

Sec. 8. Documentation Requirements:

A. Contractor shall provide the City with a **Certificate of Insurance** for review prior to the issuance of any contract or Purchase Order. All Certificates of Insurance will require written notice by the insurer or contractor's agent in the event of cancellation, reduction or other modifications of coverage by the insurer. Such notice shall be

not less than 30 days for nonrenewal by the insurer, not less than 10 days for cancellation due to nonpayment of the premium and as soon as possible for all other types of modifications. In addition to the notice requirement above, Contractor shall provide the City with written notice of cancellation, reduction, or other modification of coverage of insurance whether instigated by the insurer or by the Contractor immediately upon Contractor's receipt of knowledge of such modifications. Upon failure of the Contractor to provide such notice, Contractor assumes sole responsibility for all losses incurred by the City for which insurance would have provided coverage. The insurance certificate shall be for the insured period in which the initial contract period begins and shall be renewed by the contractor for each subsequent renewal period of the insurance for so long as the contract remains in effect.

The City shall be named as an **additional insured** on all policies except Workers' Compensation and it is required that coverage be placed with "A" rated insurance companies acceptable to the City. Statement should read, "City of Concord is added as an additional insured as evidenced by an endorsement attached to this certificate." Failure to maintain the required insurance in force may be cause for termination of this Agreement. In the event that the contractor fails to maintain and keep in force the insurance herein required, the City has the right to cancel and terminate the Agreement without notice.

B. All those doing business with the City must have a current **Privilege License** issued by the City of Concord if a privilege license is authorized by law.

C. Contractor shall provide a completed W-9 form to the City prior to execution by the City of this Agreement.

Sec. 9. Performance of Work by Contractor.

(a) The Contractor warrants that all work performed under this contract conforms to the contract requirements and is free of any defect in equipment, material, or design furnished, or workmanship performed by the Contractor or any subcontractor or supplier at any tier. This warranty shall continue for a period of 1 year from the date of issuance by the City of written final completion of the work.

(b) The Contractor shall remedy at the Contractor's expense any failure to conform, or any defect. In addition, the Contractor shall remedy at the Contractor's expense any damage to City - owned or controlled real or personal property, when that damage is the result of--

- (1) The Contractor's failure to conform to contract requirements; or
- (2) Any defect of equipment, material, workmanship, or design furnished.

(c) The Contractor shall restore any work damaged in fulfilling the terms and conditions of this clause. The Contractor's warranty with respect to work repaired or replaced will run for 1 year from the date of repair or replacement.

(d) The City shall notify the Contractor, in writing, within a reasonable time, not to exceed 30 days, after the discovery of any failure, defect, or damage.

(e) If the Contractor fails to remedy any failure, defect, or damage within a reasonable time, not to exceed 30 days unless otherwise agreed in writing and signed by the City Manager or his designee, after receipt of notice, the City shall have the right to replace repair, or otherwise remedy the failure, defect, or damage at the Contractor's expense.

(f) With respect to all warranties, express or implied, from subcontractors, manufacturers, or suppliers for work performed and materials furnished under this contract, the Contractor shall--

- (1) Obtain all warranties that would be given in normal commercial practice,
- (2) Require all warranties to be executed, in writing, for the benefit of the City, if directed to do so by the City; and
- (3) Enforce all warranties for the benefit of the City, if directed to do so by the City

(g) In the event the Contractor's warranty has expired, the City may bring suit at its expense to enforce a subcontractor's, manufacturer's, or supplier's warranty.

(h) Unless a defect is caused by the negligence of the Contractor or subcontractor or supplier at any tier, the Contractor shall not be liable for the repair of any defects of material or design furnished by the City nor for the repair of any damage that results from any defect in City-furnished material or design.

Sec. 10. Performance of Work by City. If the Contractor fails to perform the Work in accordance with the schedule referred to in Exhibit "A", the City may, in its discretion, perform or cause to be performed some or all of the Work, and doing so shall not waive any of the City's rights and remedies. Before doing so, the City shall give the Contractor reasonable notice of its intention. The Contractor shall reimburse the City for all costs incurred by the City in exercising its right to perform or cause to be performed some or all of the Work pursuant to this section.

Sec. 11. Attachments. The following attachments are made a part of this contract and incorporated herein by reference: SOLICITATION OF QUOTES, EXHIBIT "A" GENERAL CONDITIONS AND QUOTE FORM, ANY ADDENDUM(S) TO EXHIBIT A, EXHIBIT "B" SPECIAL CONDITIONS, INCLUDING ANY SPREADSHEET(S) AND MAP(S), EXHIBIT "C" NOTICE OF AWARD AND ACCEPTANCE OF NOTICE, EXHIBIT "D" ATTACHMENT SHEET FOR AND CERTIFICATE(S) OF INSURANCE, EXHIBIT "E" ATTACHMENT SHEET FOR AND PERFORMANCE & PAYMENT BOND(s), EXHIBIT "F" ATTACHMENT SHEET FOR AND FINANCE FORMS, EXHIBIT "G" NOTICE TO PROCEED, AND ANY WRITTEN CHANGE ORDERS OR DIRECTIVES TO THE CONTRACTOR BY THE DIRECTOR.

In case of conflict between an attachment and the text of this contract excluding the attachment, the text of this contract shall control. Any attachment that materially alters the standard terms contained herein must be reviewed by the City Attorney and approved by the City in writing.

Sec. 12. Notice. (a) All notices and other communications required or permitted by this contract shall be in writing and shall be given either by personal delivery, fax, or certified United States mail, return receipt requested, addressed as follows:

To the City:

Mr. J.K. Wilson, III, P.E.
City of Concord
P.O. Box 308
Concord, NC 28206
Fax Number: (704) 786-4521

To the Contractor:

Albert Benshoff, Esq.
City Attorney
PO Box 308
Concord, NC 28026
Fax Number: (704) 784-1791

(b) **Change of Address, Date Notice Deemed Given:** A change of address, fax number, or person to receive notice may be made by either party by notice given to the other party. Any notice or other communication under this contract shall be deemed given at the time of actual delivery, if it is personally delivered or sent by fax. If the notice or other communication is sent by US Mail, it shall be deemed given upon the third calendar day following the day on which such notice or other communication is deposited with the US Postal Service or upon actual delivery, whichever first occurs.

Sec. 13. Indemnification. To the maximum extent allowed by law, the Contractor shall defend, indemnify, and save harmless the City of Concord, its agents, officers, and employees, from and against all charges that arise in any manner from, in connection with, or out of this contract as a result of the acts or omissions of the Contractor or subcontractors or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable except for damage or injury caused solely by the negligence of the City its agents, officers, or employees. In performing its duties under this section, the Contractor shall at its sole expense defend the City of Concord, its agents, officers, and employees with legal counsel reasonably acceptable to City. As used in this subsection – "Charges" means claims, judgments, costs, damages, losses, demands, liabilities, duties, obligations, fines, penalties, royalties, settlements, expenses, interest, reasonable attorney's fees, and amounts for alleged violations of sedimentation pollution, erosion control, pollution, or other environmental laws, regulations, ordinances, rules, or orders. Nothing in this section shall affect any warranties in favor of the City that are otherwise provided in or arise out of this contract.

This section is in addition to and shall be construed separately from any other indemnification provisions that may be in this contract. This section shall remain in force despite termination of this contract (whether by expiration of the term or otherwise) and termination of the services of the Contractor under this contract.

Sec. 14. Corporate Status. If the Contractor is dissolved or suspended and the Contractor does not notify the City of such dissolution within three (3) business days from date of dissolution or suspension, and/or the corporate status is not reinstated within thirty (30) days, this contract, at the sole option of the City, shall be declared null and void or the Contractor shall execute a new contract showing the Contractor's correct legal entity.

Sec. 15. Miscellaneous.

(a) Choice of Law and Forum. This contract shall be deemed made in Cabarrus County, North Carolina. This contract shall be governed by and construed in accordance with the laws of North Carolina. The exclusive forum and venue for all actions arising out of this contract shall be the appropriate division of the North Carolina General Court of Justice, in Cabarrus County. Such actions shall neither be commenced in nor removed to federal court. This section shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this section.

(b) Waiver. No action or failure to act by the City shall constitute a waiver of any of its rights or remedies that arise out of this contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing.

(c) Performance of Government Functions. Nothing contained in this contract shall be deemed or construed so as to in any way estop, limit, or impair the City from exercising or performing any regulatory, policing, legislative, governmental, or other powers or functions.

(d) Severability. If any provision of this contract shall be unenforceable, the remainder of this contract shall be enforceable to the extent permitted by law.

(e) Assignment, Successors and Assigns. Without the City's written consent, the Contractor shall not assign (which includes to delegate) any of its rights (including the right to payment) or duties that arise out of this contract. Unless the City otherwise agrees in writing, the Contractor and all assigns shall be subject to all of the City's defenses and shall be liable for all of the Contractor's duties that arise out of this contract and all of the City's claims that arise out of this contract. Without granting the Contractor the right to assign, it is agreed that the duties of the Contractor that arise out of this contract shall be binding upon it and its heirs, personal representatives, successors, and assigns.

(f) Compliance with Law. In performing all of the Work, the Contractor shall comply with all applicable law.

(g) City Policy. THE CITY OPPOSES DISCRIMINATION ON THE BASIS OF RACE AND SEX AND URGES ALL OF ITS CONTRACTORS TO PROVIDE A FAIR OPPORTUNITY FOR MINORITIES AND WOMEN TO PARTICIPATE IN THEIR WORK FORCE AND AS SUBCONTRACTORS AND VENDORS UNDER CITY CONTRACTS.

(h) EEO Provisions. During the performance of this Contract the Contractor agrees as follows: (1) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. The Contractor shall take affirmative action to insure that applicants are employed and that employees are treated equally during employment, without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap. The Contractor shall post in conspicuous places available to employees and applicants for employment, notices setting forth these EEO provisions. (2) The Contractor in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, political affiliation or belief, age, or handicap.

(i) No Third Party Right Created. This contract is intended for the benefit of the City and the Contractor and not any other person.

(j) Principles of Interpretation. In this contract, unless the context requires otherwise the singular includes the plural and the plural the singular. The pronouns "it" and "its" include the masculine and feminine. Reference to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation. References to contracts and agreements shall be deemed to include all amendments to them. The word "person" includes natural persons, firms, companies associations, partnerships, trusts, corporations, governmental agencies and units, and any other legal entities.

(k) Modifications, Entire Agreement. A modification of this contract is not valid unless signed by both parties and otherwise in accordance with requirements of law. Further, a modification is not enforceable against the City unless the City Manager or other duly authorized official signs it for the City. This contract contains the entire agreement between the parties pertaining to the subject matter of this contract. With respect to that subject matter,

there are no promises, agreements, conditions, inducements, warranties, or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referenced in this contract.

(The following section applies to construction contracts only if amount is over \$50,000)

Sec. 16. Bonding. Both performance and payment bonds for the full amount of this Contract are required to be attached. Instead of bonds, you may submit a letter from your banker or stockbroker stating that cash, certified checks or government securities in the amount of this Contract will be submitted. The performance bond shall have a value equal to 100% of this Contract. This bond shall be conditioned upon faithful performance of the contract in accordance with the plans, specifications and conditions of the contract. The performance bond shall be solely for the protection of the City. The payment bond shall be in an amount equal to 100% of the Contract, and conditioned upon the prompt payment for all labor or materials for which a contractor or subcontractor is liable. The payment bond shall be solely for the protection of the persons furnishing materials or performance labor for which a contractor or subcontractor is liable.

Sec. 17. Dispute Resolution. It is understood and agreed that NCGS 143-128(f1-g) requires that disputes arising under an agreement for the erection, construction, alteration or repair of a building be subject to a dispute resolution process specified by the City. The amount in controversy shall be at least \$15,000.00 before this dispute resolution procedure may be used. In compliance with this statutory provision, the City specifies this Section as the dispute resolution process to be used on this Project. It is further understood and agreed that this dispute resolution process is based on non-binding mediation and will only be effective to the extent that the Parties to any mediated dispute participate in the mediation in good faith. It is also understood and agreed that the City is under no obligation under any circumstance to secure or enforce the participation of any other Party in the mediation of any dispute subject to this Section and NCGS 143-128(f1-g).

This Section 17 does not apply to:

- (a) The purchase and erection of prefabricated or relocatable buildings or portions of such buildings, except that portion of the work that must be performed at the construction site; or
- (b) The erection, construction alteration or repair of a building when the cost of such building is \$300,000 or less.

17.1 Any dispute arising between or among the Parties listed in Section 17.3 that arises from an agreement to construct the Project, including without limitation a breach of such agreement, shall be subject to non-binding mediation administered by the American Arbitration Association under its Construction Industry Mediation Rules ("Rules"), except as otherwise expressly set forth in this Section. To the extent any provision of the Rules is inconsistent with the provisions of this Section, the provisions of this Section shall control. The mediation provided in this Section shall be used pursuant to this Agreement and NCGS 143-128(F1-g) and is in lieu of any dispute resolution process adopted by the North Carolina State Building Commission, which process shall not apply to this Project.

17.2 For purposes of this Section the following definitions shall apply:

- a. *Agreement to construct the Project* means an agreement to construct the Project that is subject to the requirements of NCGS 143-128 and does not include any agreement related to the Project that is not subject to said statute.
- b. *Construct or construction* refers to and includes the erection, construction, alteration or repair of the Project.
- c. *Party or Parties* refers to the parties listed in Section 16.4.
- d. *Project* means the building to be erected, constructed, altered or repaired pursuant to this Agreement.

17.3 The City and any Party contracting with the City or with any first-tier or lower-tier subcontractor for the construction of the Project agree to participate in good faith in any mediation of a dispute subject to this

Section and NCGS 143-128(f1-g), including without limitation the following Parties (if any): architect(s), engineer(s), surveyor(s), construction manager, construction manager at risk, prime contractor(s), surety(ies), subcontractor(s), and supplier(s).

17.4 In order to facilitate compliance with NCGS 143-128(f1-g), the Contractor and all other Parties shall include this Section in every agreement to which it (any of them) is a Party for the construction of the Project without variation or exception. Failure to do so will constitute a breach of this Agreement, and the Contractor or other Party failing to include this Section in any agreement required by this Section shall indemnify and hold harmless the remaining Parties from and against any and all claims, including without limitation reasonable attorney fees and other costs of litigation, arising in any manner from such breach. Notwithstanding the foregoing provisions of this Section, it is expressly understood and agreed that the Parties are intended to be and shall be third-party beneficiaries of the provisions of this Section and can enforce the provisions hereof.

17.5 The following disputes are not subject to mediation: (i) a dispute seeking a non-monetary recovery; and (ii) a dispute seeking a monetary recovery of \$15,000 or less.

17.6 A dispute seeking the extension of any time limit set forth in an agreement to construct the Project shall be subject to mediation pursuant to this Section and NCGS 143-128(f1-g), but only if the damages which would be suffered by the Party seeking the extension would exceed \$15,000 if the disputed extension is denied. To the extent that liquidated damages are set forth in such agreement as the measurement of damages for failure by such Party to meet such time limit, such liquidated damages shall be the exclusive standard for determining the amount of damages associated with such dispute.

17.7 For purposes of this Section, a dispute is limited to the recovery of monetary damages from the same transaction or occurrence against a single Party or two or more Parties alleged to be liable jointly, severally or in the alternative. Two or more disputes may not be consolidated or otherwise combined without the consent of all Parties to such disputes.

17.8 In addition to such matters as are required by the Rules, a request for mediation shall include the amount of the monetary relief requested.

17.9 Prior to requesting mediation, a Party must form a good faith belief that it is entitled under applicable law to recover the monetary amount to be included in the request from one or more of the remaining Parties. Such belief must be based on a reasonable and prudent investigation into the dispute that is the subject of the request. The request for mediation must be based on such investigation and may not include any amount or the name of any remaining Party, unless supported by such investigation and good faith belief by the Party requesting the mediation.

17.10 If a Party breaches any provision of Section 17.9, it shall indemnify and hold harmless all other Parties from any costs, including reasonable attorney fees and other costs of litigation, and damages incurred by such other Parties that arise from such breach.

17.11 All expenses incurred by a Party to a dispute in preparing and presenting any claim or defense at the mediation shall be paid by the Party. Such expenses include without limitation preparation and production of witnesses and exhibits and attorney fees. All other expenses of the mediation, including filing fees and required traveling and other expenses of the mediator, shall be borne as follows: one half by the Party requesting the mediation, with the remaining parties paying equal shares of the remaining expenses and costs; provided that, if the City is named as a party to the mediation, the City shall pay at least one-third of the mediation expenses and costs divided among the Parties. If more than one Party to a dispute requests a mediation, the mediation expenses and costs to be divided among the Parties shall be borne equally by the Parties to the dispute; provided that, if the City is named as a Party to the mediation, the City shall pay at least one-third of the mediation expenses and costs divided among the Parties.

17.12 The mediation shall be held at a location agreeable to the mediator and all of the Parties; provided that, if no agreement can be reached, the mediation will be held at such location in Cabarrus County as the mediator shall determine.

17.13 The provisions of this Section are subject to any other provision of this Agreement concerning the submission, documentation and/or proof of any claim or dispute. Such other provisions shall apply in full force and shall be satisfied as a condition precedent to mediation pursuant to this Section.

17.14 The Parties understand and agree that mediation in accordance with this Section shall be a condition precedent to institution of any legal or equitable proceeding seeking monetary recovery based on any dispute that is subject to mediation pursuant to this Section.

Sec. 18. Breach. In the event of a violation of any material term of this Agreement, the non-violating party may terminate the Agreement upon written notice. Such notice shall state the violation with specificity and shall give ten (10) days to cure the violation. The cure period shall be measured as ten (10) days from the date of receipt of notice by the violating party, or, if the date is not known, then thirteen (13) days from the date the notice is placed in the United States Post. If the violation remains uncorrected at the end of the cure period, the Agreement shall be terminated without any further action by the non-violating party. Any remaining disputes shall be subject to the dispute resolution procedure set forth above, if applicable.

IN WITNESS WHEREOF, the City of Concord and the Contractor have caused this contract to be executed under seal by their respective duly authorized agents or officers.

CITY OF CONCORD:

(Typed or Printed Legal Name of Contractor)

By: _____
City Manager

By: _____
Signature of President/Vice President/Manager/Partner

ATTEST BY:

Printed Name: _____

Title: _____

City Clerk
SEAL

ATTEST:

BY: _____
Signature of Vice President, Secretary, or other officer

Printed Name: _____

Title: _____

APPROVED AS TO FORM:

Attorney for the City of Concord

SEAL

APPROVAL BY CITY FINANCE OFFICER

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Signature